

## UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

United States of America  
v.

Case No.

\_\_\_\_\_  
*Defendant(s)***FILED**United States District Court  
Albuquerque, New MexicoMitchell R. Elfers  
Clerk of Court**AMENDED CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of \_\_\_\_\_ in the county of \_\_\_\_\_ in the

\_\_\_\_\_ District of \_\_\_\_\_, the defendant(s) violated:

*Code Section**Offense Description*

This criminal complaint is based on these facts:

☐ Continued on the attached sheet.*Cristina Sandoval**Complainant's signature*\_\_\_\_\_  
*Printed name and title*

Sworn to me telephonically and signed electronically.

Date: September 15, 2023*Steve Yorkovich**Judge's signature*

City and state: \_\_\_\_\_

\_\_\_\_\_  
*Printed name and title*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

IN THE MATTER OF THE ARREST OF:

Case No. \_\_\_\_\_

Thomas Abeyta (YOB 1960)

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Cristina Sandoval, having been duly sworn, do hereby depose and state:

**INTRODUCTION AND BACKGROUND OF THE AFFIANT**

1. I make this Affidavit in support of a criminal complaint and arrest warrant charging Thomas Abeyta (YOB 1960) (ABEYTA) with violations of 18 U.S.C. § 2252A(a)(2), Distribution of Child Pornography and 18 U.S.C. § 2252A(a)(5)(B), Possession of Child Pornography.

2. I am a Special Agent (“SA”) of the Federal Bureau of Investigation (“FBI”) and have been so employed since June 2016. I am recognized as a “federal law enforcement officer” within the meaning of Federal Rule of Criminal Procedure (“FRCP”) 41(a)(2)(C). I am currently assigned to the Child Exploitation Human Trafficking Task Force (“CEHTTF”) in Albuquerque, NM, where my responsibilities include investigating child exploitation and child sex trafficking offenses. I have previously been assigned to the Violent Crime, Counterintelligence, and Transnational Organized Crime squads. I have worked cases involving national security matters, drug trafficking organizations, bank robberies, Hobbs Act violations, and sexual assault of minors on federal property. I have received on the job training from other experienced agents and law enforcement officers. My investigative training and experience includes, but is not limited to: conducting surveillance, interviewing subjects, writing affidavits for search and arrest warrants, collecting evidence, learning legal matters, and attending trainings for Internet Crimes Against Children and Human Trafficking training. I have previously participated in child exploitation investigations and search warrants.

3. The statements in this Affidavit are based on my own investigation, training, and experience, as well as information from other law enforcement officers and reliable sources. Because this Affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts which I believe are necessary to establish probable cause to support obtaining a criminal complaint against ABEYTA, for violations of 18 U.S.C. § 2252A(a)(2), Distribution of Child Pornography, and 18 U.S.C. § 2252A(a)(5)(B), Possession of Child Pornography.

#### **RELEVANT LEGAL DEFINITIONS**

4. The following terms are relevant to this Affidavit in support of this application for a criminal complaint:

a. *Child Pornography*: The term “child pornography” is defined at 18 U.S.C. § 2256(8). It consists of visual depiction of sexually explicit conduct where (a) the production of the visual depiction involved the use of a minor engaged in sexually explicit conduct, (b) the visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct, or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct), as well as any visual depiction, the production of which involves the use of a minor engaged in sexually explicit conduct. See 18 U.S.C. §§ 2252 and 2256(2), (8).

b. *Minor*: The term “minor” means any person under the age of eighteen years. See 18 U.S.C. § 2256(1).

c. *Sexually Explicit Conduct*: The term “sexually explicit conduct” means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal,

whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any persons. See 18 U.S.C. § 2256(2)

#### **SUMMARY OF PROBABLE CAUSE**

5. On August 30, 2023, an online covert employee (“OCE”) located in California and utilizing ins-dream.com, identified user Atombom (“SUBJECT ACCOUNT 1”) as possibly engaging in child exploitation offenses. The user of SUBJECT ACCOUNT 1 posted he was from New Mexico and had spied on minor family members. The user of SUBJECT ACCOUNT 1 listed his birthday as 12/07/1960 in his user profile.

6. The OCE directly messaged SUBJECT ACCOUNT 1 on ins-dream.com. The user of SUBJECT ACCOUNT 1 responded that he was available to chat on the messaging applications Wickr or Sessions. The user of SUBJECT ACCOUNT 1 stated his Wickr name was Hornyman78 (“SUBJECT ACCOUNT 2”).

7. On August 30, 2023, the OCE received a message on Session from the user of SUBJECT ACCOUNT 2, who stated he was the same user of SUBJECT ACCOUNT 1 from ins-dream.com. Communication between the OCE and Hornyman78 has been ongoing on Session from August 30, 2023 to September 14, 2023.

8. Through communications with the OCE, the user of SUBJECT ACCOUNT 2 stated his name was Tomas, that he currently lived in New Mexico, and that he was employed as the head custodian at an elementary school. He disclosed sexual assaulting a known minor from when he/she was an infant until he/she was school age. He stated that this included giving her/him over-the-counter medication so he/she would sleep through the assaults. He stated he has contact with

three minors, and disclosed taking an upskirt picture of one of the minors who was under 10 years old at the time.

9. The user of SUBJECT ACCOUNT 2 sent fully clothed images of these minors to the OCE. In one picture a minor girl is wearing a white and green cheerleading uniform with “Albuquerque” printed on the front.

10. The user of SUBJECT ACCOUNT 2 sent the OCE images of three different pairs of underwear that appear to belong to minor females. He stated the underwear were items he found at the school where he works. He stated he has never tried to do anything to any of the children at the school because he does not want to jeopardize his job.

11. The user of SUBJECT ACCOUNT 2 sent the OCE multiple images and videos of child pornography (as that term is defined by federal law and included in this Affidavit). This included a video of a minor female, approximately 3 to 6 years old, performing oral sex on an adult male penis, which was sent on August 31, 2023. Images that he sent included one with a minor female, approximately 3 to 6 years old, nude from the waist down, lying on her back and spreading her legs so her vaginal area was exposed and one with a minor female approximately 2 to 6 years old, performing oral sex on an adult male penis. This particular image was sent on September 1, 2023.

12. Open-source research identified social media accounts for individuals believed to be associated with ABEYTA. Analysis of the social media accounts showed one of these individuals was actively participating in a cheerleading program, consistent with the photo described above. The face of at least one of these associated individuals was visually similar to the photographs sent by the user of SUBJECT ACCOUNT 2 to the OCE.

13. Open-source research identified that ABEYTA has associations with minors aged 6 and 2. Images of these individuals on social media accounts were visually similar to photographs sent by

the user of SUBJECT ACCOUNT 2 to the OCE. Subsequent database checks confirmed the individuals believed to be associated with ABEYTA.

14. ABEYTA is listed as the head custodian at a local elementary school. SUBJECT ACCOUNT 2 sent a selfie-style image to the OCE. The image was visually similar to the New Mexico Department of Motor Vehicle photo for ABEYTA.

15. On September 15, 2023, a search warrant was executed at the residence belonging to ABEYTA, in Albuquerque, within the District of New Mexico (“SUBJECT PREMISES”).

16. During the search of the SUBJECT PREMISES a cellphone, a Motorola Moto 5G, IMEI 35769070784117, was located on the nightstand of ABEYTA’s bedroom. The phone had the phone number ending in 0257 and was associated with an email address utilizing ABEYTA’s name. The phone number ending in 0257 was the phone number of record for ABEYTA on his employment records with the school.

17. Examination of the cellphone showed the Session application and username Hornyman78. Images depicting child pornography were located within the Session application and the photo gallery of the phone. The images included a picture of a minor female, approximately 10 to 12 years old with an adult male performing sexual intercourse on the female.

#### **INTERSTATE NEXUS**

18. I believe the element of “in or affecting interstate or foreign commerce” is satisfied for a violation of 18 U.S.C. § 2522A, certain activities relating to material constituting or containing child pornography.

19. In my training and experience, the Motorola Moto 5G cellphone is from a company based in China and manufactured in China with parts from China, India, and the United States. In order for ABEYTA to possess the cellphone, the device traveled in interstate and foreign commerce.

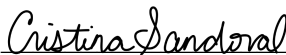
Additionally, ABETYA utilized an internet-based messaging to send files from New Mexico to California.

**CONCLUSION**

20. Based on the above information, I believe there is probable cause to believe that ABEYTA violated 18 U.S.C. § 2252A(a)(2), Distribution of Child Pornography and 18 U.S.C. § 2252A(a)(5)(B), Possession of Child Pornography.

21. Assistant United States Attorney Sarah Mease has reviewed and approved this affidavit.

22. I declare that the foregoing is true and correct to the best of my knowledge.

  
Cristina Sandoval  
FBI Special Agent

Electronically Submitted and Telephonically Sworn on the 15th of September 2023:

  
THE HONORABLE STEVEN C. YARBROUGH  
UNITED STATES MAGISTRATE JUDGE